

AMENDED IN ASSEMBLY AUGUST 23, 2004

AMENDED IN ASSEMBLY AUGUST 17, 2004

AMENDED IN ASSEMBLY JUNE 29, 2004

AMENDED IN ASSEMBLY JUNE 10, 2004

AMENDED IN ASSEMBLY AUGUST 19, 2003

AMENDED IN SENATE APRIL 30, 2003

SENATE BILL

No. 199

Introduced by Senator Murray

February 13, 2003

An act to amend ~~Section 2891.1 of the Public Utilities Code, relating to telecommunications~~; Sections 25744 and 25751 of, and to add Sections 25402.10 and 25744.5 to, the Public Resources Code, to amend Section 399.6, 399.8, and 2827 of, and to add Sections 379.8 and 760 to, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as amended, Murray. ~~Telecommunications: selling or licensing lists of subscribers~~ Energy: Solar Homes Peak Energy Procurement Program.

(1) The existing Public Utilities Act requires the Public Utilities Commission (CPUC) to require Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison to identify a separate electrical rate component to fund programs that enhance system reliability and provide in state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost effective energy

efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources. Existing commission resolutions refer to the nonbypassable rate component as a Public Goods Charge (PGC). Existing law requires that the PGC not exceed, for any tariff schedule, the level that was in effect on January 1, 2000. Existing law requires that the PGC be adjusted annually at a rate equal to the lesser of the annual growth in electric commodity sales or inflation, as defined. Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected by electrical corporations for in state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund, to fund specified programs. Existing law requires that 17.5% of the money collected under the renewable energy public goods charge be used to fund the Emerging Renewable Resources Account within the Renewable Resource Trust Account, for the purpose of a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

Existing law requires the Energy Commission to expand and accelerate development of alternative sources of energy, including solar resources. Existing law requires the Energy Commission, until January 1, 2006, and to the extent that funds are appropriated for that purpose in the annual Budget Act, to implement a grant program to accomplish specified goals, including making solar energy systems cost competitive with alternate forms of energy.

This bill would rename the Emerging Renewable Resources Account the Solar Homes Peak Energy Procurement Account, and would make the moneys therein available to fund the Solar Homes Peak Energy Procurement Program. The bill would require the Energy Commission to award rebates, and would authorize the Energy Commission to provide incentives, to support the installation of solar energy systems, as defined, on existing and new residential construction. The bill would require that the amounts collected to fund energy efficiency, renewable energy, and research, development, and demonstration be set at the levels established by the commission for 2004, and would require that any moneys collected above those 2004 levels be transferred to the Solar Homes Peak Energy Procurement Account.

This bill would require that, on or before February 1, 2005, the commission, in consultation with the Energy Commission, issue an



order initiating an investigation and opening a ratemaking proceeding to adopt and implement a program to invest in residential solar energy systems. The bill would require the commission to complete its investigation and proceeding no later than December 31, 2007. The bill would require every local publicly owned electric utility, as defined, to establish a solar homes program consistent with the program adopted and implemented by the commission, within a reasonable time after the commission establishes any program for electrical corporations. Each local publicly owned electric utility would be required to report, on an annual basis, to its customers and to the Energy Commission, information relative to the utility's solar homes program and would authorize the Energy Commission to establish guidelines for the information to be included in the annual report.

(2) Under the Reliable Electric Service Investments Act, the Energy Commission was required to hold moneys collected for renewable energy and deposited in the Renewable Resource Trust Fund until further action by the Legislature. The act requires the Energy Commission to create an initial investment plan, in accordance with specified objectives, to govern the allocation of funds in the Renewable Resource Trust Fund collected between January 1, 2002, and January 1, 2007, in order to ensure a fully competitive and self sustaining California renewable energy supply. Existing law requires the Energy Commission, on or before March 31, 2006, to prepare an investment plan proposing the application of moneys collected between January 1, 2007, and January 1, 2012.

This bill would delete the requirement that moneys collected for renewable energy and deposit in the Renewal Resource Trust be held until further action by the Legislature. The bill would require the Energy Commission, on or before March 31, 2006, to prepare a report, rather than an investment plan, describing the application of moneys collected between January 1, 2007, and January 1, 2012, and to describe the use of any funds applied toward program activities during the period January 1, 2002, through March 31, 2006.

(3) Existing law requires a solar energy system to meet applicable standards and requirements imposed by state and local permitting authorities.

This bill would require that beginning January 1, 2008, a seller of production homes, as defined, offer a solar energy system, as defined, option to all customers negotiating to purchase a new production home and to disclose certain information.



(4) Existing law authorizes the Public Utilities Commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable.

This bill would require the commission, in collaboration with the Energy Commission, to develop time variant electricity pricing tariffs for all customers.

(5) Existing law requires every electric service provider, as defined, to develop a standard contract or tariff providing for net energy metering, and to make this contract available to eligible customer generators, upon request. Existing law requires every electric service provider, upon request, to make available to eligible customer generators contracts for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 0.5% of the electric service provider's aggregate customer peak demand.

This bill would require that every electric service provider, upon request, make available to eligible customer generators contracts for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer generators exceeds 5% of the electric service provider's aggregate customer peak demand and would delete certain provisions of existing law relative to the annualized net metering calculation.

(6) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because various provisions of this bill are within the act and require action by the commission to implement its requirements, a violation of those provisions would be a crime thereby imposing a state mandated local program by creating a new crime.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Under existing law, the Federal Communications Commission licenses and partially regulates providers of commercial mobile radio service, including providers of cellular radiotelephone service, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR) services (collectively, mobile telephony service providers). Under existing law, no state or local~~



government may regulate the entry of, or the rates charged by, any commercial mobile radio service, but is generally not prohibited from regulating the other terms and conditions of commercial mobile radio service.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law authorizes the commission to regulate telecommunications services and rates of telephone corporations, except to the extent regulation of commercial mobile radio service is preempted by federal regulation. Existing law prohibits a telephone corporation selling or licensing lists of residential subscribers, from including the telephone number of any subscriber assigned an unpublished or unlisted access number, as defined, without his or her written waiver of this protection, with specified exceptions.

This bill would permit a subscriber to waive the above-described prohibition against including the telephone number of a subscriber assigned an unpublished or unlisted access number. The bill would prohibit a provider of mobile telephony services, as defined, or any affiliate or agent of the provider, providing the name and dialing number of a subscriber for inclusion in a directory, or any directory database, from including the dialing number of any subscriber without first obtaining the express consent of that subscriber. The bill would establish certain requirements for the provider's form for obtaining the subscriber's express consent. A subscriber would be permitted to revoke his or her consent to inclusion in a directory and would require that the mobile telephony services provider comply with the subscriber's request to opt out within a reasonable period of time, not to exceed 60 days. The bill would create an exception from the above provisions for a telephone corporation transferring a customer's assigned telephone number to a new provider.

This bill would make the operation of its provisions contingent upon the enactment of AB 1733.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 2891.1 of the Public Utilities Code is~~
2 ~~SECTION 1. The Legislature finds and declares all of the~~
3 ~~following:~~



1 (a) California has a pressing need to procure a steady supply
2 of affordable and reliable peak electricity.

3 (b) Solar generated electricity is uniquely suited to California's
4 needs because it produces electricity when California needs it
5 most, during the peak demand hours in summer afternoons when
6 the sun is brightest and air conditioners are running at capacity.

7 (c) Procuring solar electric generation capacity to meet peak
8 electricity demand increases system reliability and decreases
9 California's dependence on unstable fossil fuel supplies.

10 (d) Solar generated electricity diversifies California's energy
11 portfolio. California currently relies on natural gas for the bulk of
12 its electricity generation needs. Increasing energy demands place
13 increasing pressure on limited natural gas supplies and threaten
14 to raise costs.

15 (e) More than 150,000 homes will be built annually in
16 California in the coming years, challenging energy reliability and
17 affordability, and increasing air pollution, a widespread public
18 health problem that burdens all Californians.

19 (f) Investing in residential solar electricity generation
20 installations today will lower the cost of solar generated electricity
21 for all Californians in the future. In 10 years, solar peak electric
22 generation can be procured without the need for rebates. Japan
23 implemented a similar targeted program several years ago. Today,
24 the number of solar generation installations in Japan continues to
25 grow even though the subsidy program sunsets this year.

26 (g) Increasing California's solar electricity generation market
27 will also bring additional manufacturing, installation, and sales
28 jobs to the state at a higher rate than most conventional energy
29 production sources.

30 (h) The Million Solar Homes Initiative is a cost effective
31 investment by ratepayers in peak electricity generation capacity
32 and ratepayers will recoup the cost of their investment through
33 lower rates as a result of avoiding purchases of electricity at peak
34 rates, with additional system reliability and pollution reduction
35 benefits.

36 SEC. 2. Section 25402.10 is added to the Public Resources
37 Code, to read:

38 25402.10. (a) As used in this section, the following terms
39 have the following meanings:



1 (1) “kW” means kilowatts as measured from the alternating
2 current side of the solar energy system inverter consistent with
3 Section 223 of Title 15 of the United States Code.

4 (2) “Production home” means a single family residence
5 constructed as part of a development of at least 25 homes per
6 project that is intended or offered for sale.

7 (3) “Solar energy system” means a photovoltaic solar collector
8 or other photovoltaic solar energy device that has a primary
9 purpose of providing for the collection, and distribution of solar
10 energy for the generation of electricity, and that produces at least
11 1 kW alternating current rated peak electricity.

12 (b) A seller of production homes shall, beginning January 1,
13 2008, offer a solar energy system option to all customers that enter
14 into negotiations to purchase a new production home. The
15 information shall include estimated total costs and estimated
16 energy savings specific to the climate zone.

17 SEC. 3. Section 25744 of the Public Resources Code is
18 amended to read:

19 25744. (a) Seventeen and one-half percent of the money
20 collected pursuant to the renewable energy public goods charge
21 shall be used for a multiyear, consumer-based program to foster
22 the development of emerging renewable technologies in
23 distributed generation applications.

24 (b) Any ~~funds used~~ applications for funds received for
25 emerging technologies pursuant to this section on or before
26 December 31, 2004, shall be expended in accordance with the
27 report, subject to all of the following requirements:

28 (1) Funding for emerging technologies shall be provided
29 through a competitive, market-based process that shall be in place
30 for a period of not less than five years, and shall be structured so
31 as to allow eligible emerging technology manufacturers and
32 suppliers to anticipate and plan for increased sale and installation
33 volumes over the life of the program.

34 (2) The program shall provide monetary rebates, buydowns, or
35 equivalent incentives, subject to subparagraph (C), to purchasers,
36 lessees, lessors, or sellers of eligible electricity generating
37 systems. Incentives shall benefit the end-use consumer of
38 renewable generation by directly and exclusively reducing the
39 purchase or lease cost of the eligible system, or the cost of
40 electricity produced by the eligible system. Incentives shall be

1 issued on the basis of the rated electrical generating capacity of the
2 system measured in watts, or the amount of electricity production
3 of the system, measured in kilowatthours. Incentives shall be
4 limited to a maximum percentage of the system price, as
5 determined by the commission.

6 (3) Eligible distributed emerging technologies are
7 photovoltaic, solar thermal electric, fuel cell technologies that
8 utilize renewable fuels, and wind turbines of not more than 50
9 kilowatts rated electrical generating capacity per customer site,
10 and other distributed renewable emerging technologies that meet
11 the emerging technology eligibility criteria established by the
12 commission. Eligible electricity generating systems are intended
13 primarily to offset part or all of the consumer's own electricity
14 demand, and shall not be owned by local publicly owned electric
15 utilities, nor be located at a customer site that is not receiving
16 distribution service from an electrical corporation that is subject
17 to the renewable energy public goods charge and contributing
18 funds to support programs under this chapter. All eligible
19 electricity generating system components shall be new and
20 unused, shall not have been previously placed in service in any
21 other location or for any other application, and shall have a
22 warranty of not less than five years to protect against defects and
23 undue degradation of electrical generation output. Systems and
24 their fuel resources shall be located on the same premises of the
25 end-use consumer where the consumer's own electricity demand
26 is located, and all eligible electricity generating systems shall be
27 connected to the utility grid in California. The commission may
28 require eligible electricity generating systems to have meters in
29 place to monitor and measure a system's performance and
30 generation. Only systems that will be operated in compliance with
31 applicable law and the rules of the Public Utilities Commission
32 shall be eligible for funding.

33 (4) The commission shall limit the amount of funds available
34 for any system or project of multiple systems and reduce the level
35 of funding for any system or project of multiple systems that has
36 received, or may be eligible to receive, any government or utility
37 funds, incentives, or credit.

38 (5) In awarding funding, the commission may provide
39 preference to systems that provide tangible demonstrable benefits

1 to communities with a plurality of minority or low-income
2 populations.

3 (6) In awarding funding, the commission shall develop and
4 implement eligibility criteria and a system that provides
5 preference to systems based upon system performance, taking into
6 account factors, including, but not limited to, shading, insulation
7 levels, and installation orientation.

8 (7) At least once annually, the commission shall publish and
9 make available to the public the balance of funds available for
10 emerging renewable energy resources for rebates, buydowns, and
11 other incentives for the purchase of these resources.

12 (c) *Any funds used for applications received after January 1,*
13 *2005, for the Solar Homes Peak Procurement Program shall be*
14 *expended in accordance with the following:*

15 (1) *The commission shall award rebates to support the Solar*
16 *Homes Peak Energy Procurement Program and shall adopt a*
17 *schedule of declining rebates for this purpose, subject to all of the*
18 *following:*

19 (A) *Awards shall be for the installation of solar energy systems*
20 *on new or existing residences located at a customer site that is or*
21 *will be receiving electrical distribution service from an electrical*
22 *corporation that is subject to Section 383 or 399.8.*

23 (B) *The maximum rebate in year one shall be no greater than*
24 *two dollars and eighty cents (\$2.50) per watt, and shall decline*
25 *each year thereafter at a rate of no less than 7 percent per year.*

26 (C) *The rebate amount shall be zero as of January 1, 2015.*

27 (D) *The schedule shall be made available to the public no less*
28 *than 60 days in advance of its adoption and the commencement of*
29 *the first decline in rebates.*

30 (E) *The commission may increase the rebate level by not more*
31 *than 50 percent above the maximum level established by the*
32 *commission pursuant to paragraph (2) for solar energy systems*
33 *that are installed on “zero energy homes.” Prior to any increase*
34 *in the rebate level, the commission shall adopt a definition of “zero*
35 *energy homes,” through a process including at least one public*
36 *hearing with not less than 30 days’ notice.*

37 (F) *The Commission may establish eligibility criteria for solar*
38 *energy systems, including the following:*

39 (i) *The solar energy system is intended primarily to offset part*
40 *or all of the consumer’s own electricity demand.*

1 (ii) All eligible solar energy system components are new and
2 unused, and have not previously been placed in service in any other
3 location or for any other application.

4 (iii) Each eligible solar energy system has a warranty of not
5 less than five years to protect against defects and undue
6 degradation of electrical generation output.

7 (iv) Each eligible solar energy system and the fuel resource for
8 the system are located on the same premises of the end use
9 consumer where the consumer's own electricity demand is located.

10 (v) Each eligible solar energy system is connected to the
11 electrical corporation's grid within the state.

12 (G) The commission may limit the amount of funds available
13 for any system or project of multiple systems and reduce the level
14 of funding for any system or project of multiple systems that has
15 received, or may be eligible to receive, any other government or
16 utility funding, incentive, or credit.

17 (H) In awarding funding, the commission may provide
18 preference to systems that provide tangible demonstrable benefits
19 to communities with a plurality of minority or low income
20 populations.

21 (2) Consistent with the requirements of paragraph (1), the
22 commission may adjust the rebate schedule based upon changing
23 market conditions and other factors.

24 (3) Solar energy systems shall be eligible for rebates pursuant
25 to paragraph (1) for up to the first 3 kW of generating capacity
26 per residence.

27 (4) Notwithstanding paragraphs (1), (2), and (3), the
28 commission may provide monetary incentives to purchasers,
29 lessees, lessors, or sellers of eligible solar energy systems. Any
30 incentives provided shall benefit the end use consumer by directly
31 and exclusively reducing the purchase or lease cost of the eligible
32 solar energy system, or the cost of electricity produced by the
33 eligible solar energy system. Incentives shall be issued on the basis
34 of the rated electrical capacity of the system measured in watts, or
35 in the electricity production of the system, measured in
36 kilowatthours, as determined by the commission.

37 (5) As used in this subdivision, the following terms have the
38 following meanings:



1 (i) “kW” means kilowatts as measured from the alternating
2 current side of the solar energy system inverter consistent with
3 Section 223 of Title 15 of the United States Code.

4 (ii) “Solar energy system” means a photovoltaic solar
5 collector or other photovoltaic solar energy device that has a
6 primary purpose of providing for the collection and distribution of
7 solar energy for the generation of electricity, and that produces at
8 least 1 kW alternating current rated peak electricity.

9 (iii) “Solar Homes Peak Energy Procurement Program”
10 means the program established by this subdivision.

11 SEC. 4. Section 25744.5 is added to the Public Resources
12 Code, to read:

13 25744.5. In administering the Solar Homes Peak Energy
14 Procurement Program, the commission shall do all the following:

15 (a) Examine financing options that could lower solar energy
16 system financing costs to the homeowner. The commission shall
17 examine wholesale and retail mortgage markets, and other issues
18 that it deems appropriate. The commission shall submit a report
19 of its findings and recommendations to the Legislature and the
20 Governor no later than January 1, 2006.

21 (b) Establish conditions on rebate or incentive awards that, as
22 determined by the commission, require or encourage all of the
23 following:

24 (1) Appropriate siting and high quality installation of solar
25 energy systems.

26 (2) Optimal solar energy system performance during periods of
27 peak electricity demand, including the use of advanced metering
28 systems, in home performance meters, dispatchable battery
29 backup systems, and performance based incentives.

30 (3) Appropriate energy efficiency improvements in the new or
31 existing home where the solar energy system is installed.

32 (c) Acquire, if determined to be necessary, appropriate
33 technical and administrative services or expertise to support the
34 Solar Homes Peak Energy Procurement Program. The
35 commission may award contracts to develop or administer all or
36 a portion of the Solar Homes Peak Energy Procurement Program.

37 (d) The commission shall adopt guidelines governing the Solar
38 Homes Peak Energy Procurement Program authorized under this
39 chapter, at a publicly noticed meeting offering all interested
40 parties an opportunity to comment. Substantive changes to the

1 *guidelines may not be adopted without at least 10 days' written*
2 *notice to the public. The public notice of meetings required by this*
3 *subdivision may not be less than 30 days. Notwithstanding any*
4 *other provision of law, any guidelines adopted pursuant to this*
5 *chapter shall be exempt from the requirements of Chapter 3.5*
6 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
7 *2 of the Government Code.*

8 *(e) By January 1, 2006, the commission shall publish*
9 *educational materials designed to demonstrate how builders may*
10 *incorporate those energy efficiency measures that best*
11 *complement solar homes.*

12 *SEC. 5. Section 25751 of the Public Resources Code is*
13 *amended to read:*

14 25751. (a) The Renewable Resource Trust Fund is hereby
15 created in the State Treasury.

16 (b) The following accounts are hereby established within the
17 Renewable Resource Trust Fund:

18 (1) The Existing Renewable Resources Account.

19 (2) New Renewable Resources Account.

20 (3) ~~Emerging Renewable Resources Account~~ *Solar Homes*
21 *Peak Procurement Account.*

22 (4) Customer-Credit Renewable Resource Purchases Account.

23 (5) Renewable Resources Consumer Education Account.

24 (c) The money in the fund may be expended for the state's
25 administration of this article only upon appropriation by the
26 Legislature in the annual Budget Act.

27 (d) Notwithstanding Section 383, that portion of revenues
28 collected by electrical corporations for the benefit of in-state
29 operation and development of existing and new and emerging
30 renewable resource technologies, pursuant to Section 399.8 of the
31 Public Utilities Code, shall be transmitted to the commission at
32 least quarterly for deposit in the Renewable Resource Trust Fund
33 pursuant to Section 399.6 of the Public Utilities Code. After
34 setting aside in the fund money that may be needed for
35 expenditures authorized by the annual Budget Act in accordance
36 with subdivision (c), the Treasurer shall immediately deposit
37 money received pursuant to this section into the accounts created
38 pursuant to subdivision (b) in proportions designated by the
39 commission for the current calendar year. Notwithstanding
40 Section 13340 of the Government Code, the money in the fund and

the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts. The commission shall examine the cashflow in the respective accounts on an annual basis, and shall annually prepare and submit to the Legislature a report that describes the status of account transfers and repayments.

(g) The commission shall, on a quarterly basis, report to the Legislature on the implementation of this article. Those quarterly reports shall be submitted to the Legislature not more than 30 days after the close of each quarter and shall include information describing the awards submitted to the Controller for payment pursuant to this article, the cumulative commitment of claims by account, the relative demand for funds by account, a forecast of future awards, and other matters the commission determines may be of importance to the Legislature.

(h) The Department of Finance, commencing March 1, 1999, shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report

1 shall include information regarding revenues, payment of awards,
2 reserves held for future commitments, unencumbered cash
3 balances, and other matters that the Director of Finance determines
4 may be of importance to the Legislature.

5 *SEC. 6. Section 379.8 is added to the Public Utilities Code, to*
6 *read:*

7 *379.8. Notwithstanding any other law, on or before February*
8 *1, 2005, the commission, in consultation with the State Energy*
9 *Resources Conservation and Development Commission shall issue*
10 *an order initiating an investigation and opening a ratemaking*
11 *proceeding to adopt and implement a program to invest in*
12 *residential solar energy systems, consistent with all of the*
13 *following:*

14 *(a) The objective of the investigation and proceeding shall be*
15 *to evaluate current programs of the commission and the State*
16 *Energy Resources Conservation and Development Commission to*
17 *determine whether those programs are adequately funded to*
18 *achieve the goal of placing 1,000,000 solar energy systems on*
19 *homes by December 31, 2017.*

20 *(b) The proceeding shall include public hearings that*
21 *encourage participation by a broad and diverse range of interests*
22 *from all areas of the state, and interested state entities, including*
23 *the State Energy Resources Conservation and Development*
24 *Commission.*

25 *(c) The commission shall include the reasonable cost of the*
26 *program in the distribution revenue requirements of electrical*
27 *corporations.*

28 *(d) Any charge imposed to fund the programs adopted and*
29 *implemented pursuant to this section shall be imposed upon all*
30 *customers.*

31 *(e) No charge in excess of .05 cents per kilowatt hour may be*
32 *imposed to fund programs adopted and implemented pursuant to*
33 *this section.*

34 *(f) The commission shall complete its investigation and*
35 *proceeding no later than December 31, 2007.*

36 *(g) Every local publicly owned electric utility, as defined in*
37 *Section 9604, shall establish a solar homes program consistent*
38 *with program adopted and implemented by the commission*
39 *pursuant to this section, to fund program expenditure levels*
40 *consistent with those established for the three largest electrical*

corporations in California, at a rate proportional to the size of the ratepayer base served by the local publicly owned electric utility. Every local publicly owned electric utility shall establish the program within a reasonable period of time, but not to exceed six months, after the commission adopts and implements any solar homes program pursuant to this section. Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, information relative to the utility's solar homes program. The State Energy Resources Conservation and Development Commission may establish guidelines for the information to be included in the annual report. The charge imposed pursuant this subdivision shall fund the utility's administrative and reporting costs pursuant to this section.

SEC. 7. Section 399.6 of the Public Utilities Code is amended to read:

399.6. (a) In order to optimize public investment and ensure that the most cost-effective and efficient investments in renewable resources are vigorously pursued, the Energy Commission shall create an investment plan as set forth in paragraphs (1) to (3), inclusive, to govern the allocation of funds provided pursuant to this article. The Energy Commission's long-term goal shall be a fully competitive and self-sustaining California renewable energy supply. The investment plan shall be in accordance with all of the following:

(1) The investment plan's objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable energy resources, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(2) An additional objective of the plan shall be to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance.

(3) The investment plan shall contain specific numerical targets, reflecting the projected impact of the plan, for both of the following:

(A) Increased quantity of California electrical generation produced from emerging technologies and from overall renewable resources.

(B) Increased supply of renewable generation available from facilities other than those selling to investor-owned utilities under contracts entered into prior to 1996 under the federal Public Utilities Regulatory Policies Act of 1978 (P.L. 95-617).

(b) The Energy Commission shall, on an annual basis, evaluate progress on meeting the targets set forth in subparagraphs (A) and (B) of paragraph (3) of subdivision (a), or any substitute provisions adopted by the Legislature upon review of the investment plan, and assess the impact of the investment plan on reducing the cost to Californians of renewable energy generation.

(c) In preparing ~~these investment plans~~ *the investment plan*, the Energy Commission shall recommend allocations among all of the following:

(1) (A) Except as provided in subparagraph (B), production incentives for new renewable energy, including repowered or refurbished renewable energy.

(B) Allocations may not be made for renewable energy that is generated by a project that remains under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter.

(C) Notwithstanding subparagraph (B), production incentives for incremental new, repowered, or refurbished renewable energy from existing projects under a power purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, may be allowed in any month, if all of the following occur:

(i) The project's power purchase contract provides that all energy delivered and sold under the contract is paid at a price that does not exceed commission-approved short-run avoided cost of energy.

(ii) Either of the following:

(I) The power purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive.

(II) If a project's installed capacity as of December 31, 1998, is less than 75 percent of the nameplate capacity as stated in the

1 power purchase contract, the power purchase contract is amended
2 to provide that the kilowatthours used to determine the capacity
3 payment in any time-of-delivery period in any month under the
4 contract shall be equal to the actual kilowatthour production, but
5 no greater than the product of the five-year average of the
6 kilowatthours delivered for the corresponding time-of-delivery
7 period and month, in the years 1994 to 1998, inclusive, and the
8 ratio of installed capacity as of December 31 of the previous year,
9 but not to exceed contract nameplate capacity, to the installed
10 capacity as of December 31, 1998.

11 (iii) The production incentive is payable only with respect to
12 the kilowatthours delivered in a particular month that exceeds the
13 corresponding five-year average calculated pursuant to clause (ii).

14 (2) Rebates, buydowns, or equivalent incentives for emerging
15 renewable technologies.

16 (3) Customer credits for renewables not under contract with a
17 utility.

18 (4) Customer education.

19 (5) Incentives for reducing fuel costs that are confirmed to the
20 satisfaction of the Energy Commission at solid fuel biomass
21 energy facilities in order to provide demonstrable environmental
22 and public benefits, including, but not limited to, air quality.

23 (6) Solar thermal generating resources that enhance the
24 environmental value or reliability of the electrical system and that
25 require financial assistance to remain economically viable, as
26 determined by the Energy Commission. The Energy Commission
27 may require financial disclosure from applicants for purposes of
28 this paragraph.

29 (7) Specified fuel cell technologies, if the Energy Commission
30 makes all of the following findings:

31 (A) The specified technologies have similar or better air
32 pollutant characteristics than renewable technologies in the
33 investment plan.

34 (B) The specified technologies require financial assistance to
35 become commercially viable by reference to wholesale generation
36 prices.

37 (C) The specified technologies could contribute significantly
38 to the infrastructure development or other innovation required to
39 meet the long-term objective of a self-sustaining, competitive
40 supply of renewable energy.

(8) Existing wind-generating resources, if the Energy Commission finds that the existing wind-generating resources are a cost-effective source of reliable and environmental benefits compared with other eligible sources, and that the existing wind-generating resources require financial assistance to remain economically viable, as determined by the Energy Commission. The Energy Commission may require financial disclosure from applicants for the purposes of this paragraph.

(d) The commission shall establish a cap on the aggregate amount of funds that may be awarded to public entities from the program that provides customer credits for renewables. The intent of the cap is to assure adequate funding of credits for residential and small commercial customers.

~~(e) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to this article shall be transferred to the Renewable Resource Trust Fund of the Energy Commission, to be held until further action by the Legislature. The Energy Commission shall prepare and submit to the Legislature, on or before March 31, 2001, an initial investment plan for these moneys, addressing the application of moneys collected between January 1, 2002, and January 1, 2007. The initial investment plan shall also include an evaluation of and report to the Legislature regarding the appropriateness and structure of a mandatory state purchase of renewable energy. On or before March 31, 2006, the Energy Commission shall prepare an investment plan proposing a report describing the application of moneys collected between January 1, 2007, and January 1, 2012. No moneys may be expended in the years covered by these plans without further legislative action. The report shall describe the use of moneys applied toward program activities during the period commencing January 1, 2002, through March 31, 2006.~~

SEC. 8. Section 399.8 of the Public Utilities Code is amended to read:

399.8. (a) In order to ensure that the citizens of this state continue to receive safe, reliable, affordable, and environmentally sustainable electric service, it is the policy of this state and the intent of the Legislature that prudent investments in energy efficiency, renewable energy, and research, development and demonstration shall continue to be made.

1 (b) (1) Every customer of an electrical corporation, shall pay
2 a nonbypassable system benefits charge authorized pursuant to
3 this article. The system benefits charge shall fund energy
4 efficiency, renewable energy, and research, development and
5 demonstration.

6 (2) Local publicly owned electric utilities shall continue to
7 collect and administer system benefits charges pursuant to Section
8 385.

9 (c) (1) The commission shall require each electrical
10 corporation to identify a separate rate component to collect
11 revenues to fund energy efficiency, renewable energy, and
12 research, development and demonstration programs authorized
13 pursuant to this section beginning January 1, 2002, through
14 January 1, 2012. The rate component shall be a nonbypassable
15 element of the local distribution service and collected on the basis
16 of usage.

17 (2) This rate component may not exceed, for any tariff
18 schedule, the level of the rate component that was used to recover
19 funds authorized pursuant to Section 381 on January 1, 2000. If the
20 amounts specified in paragraph (1) of subdivision (d) are not
21 recovered fully in any year, the commission shall reset the rate
22 component to restore the unrecovered balance, provided that the
23 rate component may not exceed, for any tariff schedule, the level
24 of the rate component that was used to recover funds authorized
25 pursuant to Section 381 on January 1, 2000. Pending restoration,
26 any annual shortfalls shall be allocated pro rata among the three
27 funding categories in the proportions established in paragraph (1)
28 of subdivision (d).

29 (d) The commission shall order San Diego Gas and Electric
30 Company, Southern California Edison Company, and Pacific Gas
31 and Electric Company to collect these funds commencing on
32 January 1, 2002, as follows:

33 (1) Two hundred twenty-eight million dollars (\$228,000,000)
34 per year in total for energy efficiency and conservation activities,
35 one hundred thirty-five million dollars (\$135,000,000) in total per
36 year for renewable energy, and sixty-two million five hundred
37 thousand dollars (\$62,500,000) in total per year for research,
38 development and demonstration. The funds for energy efficiency
39 and conservation activities shall continue to be allocated in

1 proportions established for the year 2000 as set forth in paragraph
2 (1) of subdivision (c) of Section 381.

3 (2) The ~~amounts~~ *nonbypassable rate component* shall be
4 adjusted annually at a rate equal to the lesser of the annual growth
5 in electric commodity sales or inflation, as defined by the gross
6 domestic product deflator. *The amounts collected to fund energy*
7 *efficiency, renewable energy, and research, development and*
8 *demonstration, shall be those levels established by the commission*
9 *for 2004. Any additional moneys collected as a result of the*
10 *difference between the rate component amount specified by*
11 *paragraph (2) of subdivision (c) and the amounts required to be*
12 *collected pursuant to this subdivision, shall be transferred at least*
13 *quarterly to the Solar Homes Peak Energy Procurement Account*
14 *within the Renewable Resource Trust Fund of the State Energy*
15 *Resources Conservation and Development Commission.*

16 (e) The commission and the Energy Commission shall retain
17 and continue their oversight responsibilities as set forth in Sections
18 381 and 383, and Chapter 7.1 (commencing with Section 25620)
19 and Chapter 8.6 (commencing with Section 25740) of Division 15
20 of the Public Resources Code.

21 (f) (1) On or before January 1, 2004, the Governor shall
22 appoint an independent review panel including, but not limited to,
23 members with expertise on the energy service needs of large and
24 small electricity consumers, system reliability issues, and
25 energy-related public policy. On or before January 1, 2005, the
26 panel shall prepare and submit to the Legislature and the Energy
27 Commission a report evaluating the energy efficiency, renewable
28 energy, and research, development and demonstration programs
29 funded under this section. Reasonable costs associated with the
30 review in each of the three program categories, including technical
31 assistance, may be charged to the relevant program category under
32 procedures to be developed by the commission for energy
33 efficiency and by the Energy Commission for renewable energy
34 and research development and demonstration.

35 (2) The report shall also assess all of the following:

36 (A) Whether ongoing programs are consistent with the
37 statutory goals.

38 (B) Whether potential synergies among the program categories
39 described in paragraph (1) that could provide enhanced public
40 value have been identified and incorporated in the programs.

1 (C) If established targets for increased renewable generation
2 are likely to be achieved.

3 (D) What changes should be made to result in a more efficient
4 use of public resources.

5 (3) The report shall also compare the Energy Commission's
6 programs with efforts undertaken by other states and assess, as an
7 alternative, the relative costs and benefits of adopting a tradable
8 minimum renewable energy requirement in California. The
9 evaluation shall include recommendations intended to optimize
10 renewable resource development at the least cost.

11 (4) For energy efficiency programs, the report shall include an
12 evaluation of all of the following:

13 (A) The net benefits secured for residential customers, taking
14 into account both public and private costs, including
15 improvements in that customer group's ability to avoid or reduce
16 consumption of relatively costly peak electricity.

17 (B) Whether the programs provide a balance of benefits to all
18 sectors that contribute to the funding.

19 (C) The extent to which competition in energy markets
20 including, but not limited to, load participation in ancillary
21 services markets, and improvements in technology affect the
22 continuing need for such programs.

23 (D) The status and growth of the private, competitive energy
24 services industry that provides energy efficiency services and
25 other energy products to customers.

26 (E) The commercial availability of any new technologies that
27 reduce electricity demands during high-priced periods.

28 (F) Customers' willingness and ability to reduce consumption
29 or adopt energy efficiency measures without program support.

30 (G) The extent to which the programs have delivered
31 cost-effective energy efficiency not adequately provided by
32 markets and as a result have reduced energy demand and
33 consumption.

34 (H) The relative cost-effectiveness of program expenditures
35 compared to other current or potential expenditures to enhance
36 system reliability.

37 (5) The report shall include specific recommendations aimed
38 at assisting the Legislature in determining whether to change or
39 eliminate the collection of the system benefits charge on or after
40 January 1, 2007.

1 (6) The panel may update and revise the report as needed.

2 (g) Promptly after receiving the panel's report, the commission
3 shall convene a proceeding to address implementation of the
4 panel's energy efficiency recommendations.

5 (h) An applicant for the Large Nonresidential Standard
6 Performance Contract Program funded pursuant to paragraph (1)
7 of subdivision (b) and an electrical corporation shall promptly
8 attempt to resolve disputes that arise related to the program's
9 guidelines and parameters prior to entering into a program
10 agreement. The applicant shall provide the electrical corporation
11 with written notice of any dispute. Within 10 business days after
12 receipt of the notice, the parties shall meet to resolve the dispute.
13 If the dispute is not resolved within 10 business days after the date
14 of the meeting, the electrical corporation shall notify the applicant
15 of his or her right to file a complaint with the commission, which
16 complaint shall describe the grounds for the complaint, injury, and
17 relief sought. The commission shall issue its findings in response
18 to a filed complaint within 30 business days of the date of receipt
19 of the complaint. Prior to issuance of its findings, the commission
20 shall provide a copy of the complaint to the electrical corporation,
21 which shall provide a response to the complaint to the commission
22 within five business days of the date of receipt. During the dispute
23 period, the amount of estimated financial incentives shall be held
24 in reserve until the dispute is resolved.

25 (i) *The commission shall, on or before February 1, 2005, issue*
26 *an order opening a ratemaking or other appropriate proceeding to*
27 *timely implement the changes made to subdivision (d) during the*
28 *2004 portion of the 2003–04 Regular Session.*

29 SEC. 9. *Section 760 is added to the Public Utilities Code, to*
30 *read:*

31 760. *The commission, in collaboration with the State Energy*
32 *Resources Conservation and Development Commission, shall*
33 *develop time-variant electricity pricing tariffs for all customers.*

34 SEC. 10. *Section 2827 of the Public Utilities Code is amended*
35 *to read:*

36 2827. (a) The Legislature finds and declares that a program
37 to provide net energy metering for eligible customer-generators is
38 one way to encourage substantial private investment in renewable
39 energy resources, stimulate in-state economic growth, reduce
40 demand for electricity during peak consumption periods, help

1 stabilize California’s energy supply infrastructure, enhance the
2 continued diversification of California’s energy resource mix, and
3 reduce interconnection and administrative costs for electricity
4 suppliers.

5 (b) As used in this section, the following definitions apply:

6 (1) “Electric service provider” means an electrical
7 corporation, as defined in Section 218, a local publicly owned
8 electric utility, as defined in Section 9604, or an electrical
9 cooperative, as defined in Section 2776, or any other entity that
10 offers electrical service. This section shall not apply to a local
11 publicly owned electric utility, as defined in Section 9604 of the
12 Public Utilities Code, that serves more than 750,000 customers
13 and that also conveys water to its customers.

14 (2) “Eligible customer-generator” means a residential, small
15 commercial customer as defined in subdivision (h) of Section 331,
16 commercial, industrial, or agricultural customer of an electric
17 service provider, who uses a solar or a wind turbine electrical
18 generating facility, or a hybrid system of both, with a capacity of
19 not more than one megawatt that is located on the customer’s
20 owned, leased, or rented premises, is interconnected and operates
21 in parallel with the electric grid, and is intended primarily to offset
22 part or all of the customer’s own electrical requirements.

23 (3) “Net energy metering” means measuring the difference
24 between the electricity supplied through the electric grid and the
25 electricity generated by an eligible customer-generator and fed
26 back to the electric grid over a 12-month period as described in
27 subdivision (h). Net energy metering shall be accomplished using
28 a single meter capable of registering the flow of electricity in two
29 directions. An additional meter or meters to monitor the flow of
30 electricity in each direction may be installed with the consent of
31 the customer-generator, at the expense of the electric service
32 provider, and the additional metering shall be used only to provide
33 the information necessary to accurately bill or credit the
34 customer-generator pursuant to subdivision (h), or to collect solar
35 or wind electric generating system performance information for
36 research purposes. If the existing electrical meter of an eligible
37 customer-generator is not capable of measuring the flow of
38 electricity in two directions, the customer-generator shall be
39 responsible for all expenses involved in purchasing and installing
40 a meter that is able to measure electricity flow in two directions.



1 If an additional meter or meters are installed, the net energy
2 metering calculation shall yield a result identical to that of a single
3 meter. An eligible customer-generator who already owns an
4 existing solar or wind turbine electrical generating facility, or a
5 hybrid system of both, is eligible to receive net energy metering
6 service in accordance with this section.

7 (4) “Wind energy co-metering” means any wind energy
8 project greater than 50 kilowatts, but not exceeding one megawatt,
9 where the difference between the electricity supplied through the
10 electric grid and the electricity generated by an eligible
11 customer-generator and fed back to the electric grid over a
12 12-month period is as described in subdivision (h). Wind energy
13 co-metering shall be accomplished pursuant to Section 2827.8.

14 (5) “Co-energy metering” means a program that is the same in
15 all other respects as a net energy metering program, except that the
16 local publicly owned electric utility, as defined in Section 9604,
17 has elected to apply a generation-to-generation energy and
18 time-of-use credit formula as provided in subdivision (i).

19 (6) “Ratemaking authority” means, for an electrical
20 corporation as defined in Section 218, or an electrical cooperative
21 as defined in Section 2776, the commission, and for a local
22 publicly owned electric utility as defined in Section 9604, the local
23 elected body responsible for regulating the rates of the local
24 publicly owned utility.

25 (c) (1) Every electric service provider shall develop a standard
26 contract or tariff providing for net energy metering, and shall make
27 this contract available to eligible customer-generators, upon
28 request, on a first-come-first-served basis until the time that the
29 total rated generating capacity used by eligible
30 customer-generators exceeds ~~one-half of~~ 15 percent of the electric
31 service provider’s aggregate customer peak demand.

32 (2) On an annual basis, beginning in 2003, every electric service
33 provider shall make available to the ratemaking authority
34 information on the total rated generating capacity used by eligible
35 customer-generators that are customers of that provider in the
36 provider’s service area. For those electric service providers who
37 are operating pursuant to Section 394, they shall make available
38 to the ratemaking authority the information required by this
39 paragraph for each eligible customer-generator that is their
40 customer for each service area of an electric corporation, local

publicly owned electric utility, or electrical cooperative, in which the customer has net energy metering. The ratemaking authority shall develop a process for making the information required by this paragraph available to energy service providers, and for using that information to determine when, pursuant to paragraph (3), a service provider is not obligated to provide net energy metering to additional customer-generators in its service area.

(3) Notwithstanding paragraph (1), an electric service provider is not obligated to provide net energy metering to additional customer-generators in its service area when the combined total peak demand of all customer-generators served by all the electric service providers in that service area furnishing net energy metering to eligible customer-generators exceeds ~~one-half of~~ 15 percent of the aggregate customer peak demand of those electric service providers.

(d) Electric service providers shall make all necessary forms and contracts for net metering service available for download from the Internet.

(e) (1) Every electric service provider shall ensure that requests for establishment of net energy metering are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working days from the date the electric service provider receives a completed application form for net metering service, including a signed interconnection agreement from an eligible customer-generator and the electric inspection clearance from the governmental authority having jurisdiction. If an electric service provider is unable to process the request within the allowable timeframe, the electric service provider shall notify both the customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(2) Electric service providers shall ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date the electric service provider receives a completed application form from the eligible customer-generator for an interconnection agreement. If an electric service provider is unable to process the request within the allowable timeframe, the electric service provider shall notify the customer-generator and



1 the ratemaking authority of the reason for its inability to process
2 the request and the expected completion date.

3 (f) (1) If a customer participates in direct transactions pursuant
4 to paragraph (1) of subdivision (b) of Section 365 with an electric
5 supplier that does not provide distribution service for the direct
6 transactions, the service provider that provides distribution service
7 for an eligible customer-generator is not obligated to provide net
8 energy metering to the customer.

9 (2) If a customer participates in direct transactions pursuant to
10 paragraph (1) of subdivision (b) of Section 365 with an electric
11 supplier, and the customer is an eligible customer-generator, the
12 service provider that provides distribution service for the direct
13 transactions may recover from the customer's electric service
14 provider the incremental costs of metering and billing service
15 related to net energy metering in an amount set by the ratemaking
16 authority.

17 (g) Each net energy metering contract or tariff shall be
18 identical, with respect to rate structure, all retail rate components,
19 and any monthly charges, to the contract or tariff to which the same
20 customer would be assigned if the customer did not use an eligible
21 solar or wind electrical generating facility, except that eligible
22 customer-generators shall not be assessed standby charges on the
23 electrical generating capacity or the kilowatthour production of an
24 eligible solar or wind electrical generating facility. The charges for
25 all retail rate components for eligible customer-generators shall be
26 based exclusively on the customer-generator's net kilowatthour
27 consumption over a 12-month period, without regard to the
28 customer-generator's choice of electric service provider. Any new
29 or additional demand charge, standby charge, customer charge,
30 minimum monthly charge, interconnection charge, or any other
31 charge that would increase an eligible customer-generator's costs
32 beyond those of other customers who are not customer-generators
33 in the rate class to which the eligible customer-generator would
34 otherwise be assigned if the customer did not own, lease, rent, or
35 otherwise operate an eligible solar or wind electrical generating
36 facility are contrary to the intent of this section, and shall not form
37 a part of net energy metering contracts or tariffs.

38 (h) For eligible residential and small commercial
39 customer-generators, the net energy metering calculation shall be
40 made by measuring the difference between the electricity supplied



to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to or be eligible for if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric service provider would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under tariffs employing "time of use" rates, any net monthly

1 consumption of electricity shall be calculated according to the
2 terms of the contract or tariff to which the same customer would
3 be assigned to or be eligible for if the customer was not an eligible
4 customer-generator. When those same customer-generators are
5 net generators during any discrete time of use period, the net
6 kilowatthours produced shall be valued at the same price per
7 kilowatthour as the electric service provider would charge for
8 retail kilowatthour sales during that same time of use period. If the
9 eligible customer-generator's time of use electrical meter is unable
10 to measure the flow of electricity in two directions, paragraph (3)
11 of subdivision (b) shall apply.

12 (C) For ~~all residential and small commercial~~
13 ~~customer-generators and for each billing period, the net balance of~~
14 ~~moneys owed to the electric service provider for net consumption~~
15 ~~of electricity or credits owed to the customer-generator for net~~
16 ~~generation of electricity shall be carried forward as a monetary~~
17 ~~value until the end of each 12-month period. For all commercial,~~
18 ~~industrial, and agricultural customer-generators the net balance of~~
19 ~~moneys owed shall be paid in accordance with the electric service~~
20 ~~provider's normal billing cycle, except that if the commercial,~~
21 ~~industrial, or agricultural customer-generator is a net electricity~~
22 ~~producer over a normal billing cycle, any excess kilowatthours~~
23 ~~generated during the billing cycle shall be carried over to the~~
24 ~~following billing period as a monetary value, calculated according~~
25 ~~to the procedures set forth in this section, and appear as a credit on~~
26 ~~the customer-generator's account, until the end of the annual~~
27 ~~period when paragraph (3) shall apply.~~

28 (3) At the end of each 12-month period, where the electricity
29 generated by the eligible customer-generator during the 12-month
30 period exceeds the electricity supplied by the electric service
31 provider during that same period, the eligible customer-generator
32 is a net electricity producer and the electric service provider shall
33 retain any excess kilowatthours generated during the prior
34 12-month period. The eligible customer-generator shall not be
35 owed any compensation for those excess kilowatthours unless the
36 electric service provider enters into a purchase agreement with the
37 eligible customer-generator for those excess kilowatthours.

38 (4) The electric service provider shall provide every eligible
39 residential or small commercial customer-generator with net
40 electricity consumption information with each regular bill. That

1 information shall include the current monetary balance owed the
2 electric service provider for net electricity consumed since the last
3 12-month period ended. Notwithstanding this subdivision, an
4 electric service provider shall permit that customer to pay monthly
5 for net energy consumed.

6 (5) If an eligible residential or small commercial
7 customer-generator terminates the customer relationship with the
8 electric service provider, the electric service provider shall
9 reconcile the eligible customer-generator's consumption and
10 production of electricity during any part of a 12-month period
11 following the last reconciliation, according to the requirements set
12 forth in this subdivision, except that those requirements shall apply
13 only to the months since the most recent 12-month bill.

14 (6) If an electric service provider providing net metering to a
15 residential or small commercial customer-generator ceases
16 providing that electrical service to that customer during any
17 12-month period, and the customer-generator enters into a new net
18 metering contract or tariff with a new electric service provider, the
19 12-month period, with respect to that new electric service
20 provider, shall commence on the date on which the new electric
21 service provider first supplies electric service to the
22 customer-generator.

23 (i) Notwithstanding any other provisions of this section, the
24 following provisions shall apply to an eligible customer-generator
25 with a capacity of more than 10 kilowatts, but not exceeding one
26 megawatt, that receives electrical service from a local publicly
27 owned electric utility, as defined in Section 9604, that has elected
28 to utilize a co-energy metering program unless the electric service
29 provider chooses to provide service for eligible
30 customer-generators with a capacity of more than 10 kilowatts in
31 accordance with subdivisions (g) and (h):

32 (1) The eligible customer-generator shall be required to utilize
33 a meter, or multiple meters, capable of separately measuring
34 electricity flow in both directions. All meters shall provide
35 "time-of-use" measurements of electricity flow, and the customer
36 shall take service on a time-of-use rate schedule. If the existing
37 meter of the eligible customer-generator is not a time-of-use meter
38 or is not capable of measuring total flow of energy in both
39 directions, the eligible customer-generator shall be responsible for
40 all expenses involved in purchasing and installing a meter that is

1 both time-of-use and able to measure total electricity flow in both
2 directions. This subdivision shall not restrict the ability of an
3 eligible customer-generator to utilize any economic incentives
4 provided by a government agency or the electric service provider
5 to reduce its costs for purchasing and installing a time-of-use
6 meter.

7 (2) The consumption of electricity from the electric service
8 provider shall result in a cost to the eligible customer-generator to
9 be priced in accordance with the standard rate charged to the
10 eligible customer-generator in accordance with the rate structure
11 to which the customer would be assigned if the customer did not
12 use an eligible solar or wind electrical generating facility. The
13 generation of electricity provided to the electric service provider
14 shall result in a credit to the eligible customer-generator and shall
15 be priced in accordance with the generation component,
16 established under the applicable structure to which the customer
17 would be assigned if the customer did not use an eligible solar or
18 wind electrical generating facility.

19 (3) All costs and credits shall be shown on the eligible
20 customer-generator's bill for each billing period. In any months in
21 which the eligible customer-generator has been a net consumer of
22 electricity calculated on the basis of value determined pursuant to
23 paragraph (2), the customer-generator shall owe to the electric
24 service provider the balance of electricity costs and credits during
25 that billing period. In any billing period in which the eligible
26 customer-generator has been a net producer of electricity
27 calculated on the basis of value determined pursuant to paragraph
28 (2), the electric service provider shall owe to the eligible
29 customer-generator the balance of electricity costs and credits
30 during that billing period. Any net credit to the eligible
31 customer-generator of electricity costs may be carried forward to
32 subsequent billing periods, provided that an electric service
33 provider may choose to carry the credit over as a kilowatt hour
34 credit consistent with the provisions of any applicable tariff,
35 including any differences attributable to the time of generation of
36 the electricity. At the end of each 12-month period, the electric
37 service provider may reduce any net credit due to the eligible
38 customer-generator to zero.

39 (j) A solar or wind turbine electrical generating system, or a
40 hybrid system of both, used by an eligible customer-generator



1 shall meet all applicable safety and performance standards
2 established by the National Electrical Code, the Institute of
3 Electrical and Electronics Engineers, and accredited testing
4 laboratories such as Underwriters Laboratories and, where
5 applicable, rules of the Public Utilities Commission regarding
6 safety and reliability. A customer-generator whose solar or wind
7 turbine electrical generating system, or a hybrid system of both,
8 meets those standards and rules shall not be required to install
9 additional controls, perform or pay for additional tests, or purchase
10 additional liability insurance.

11 (k) If the commission determines that there are cost or revenue
12 obligations for an electric corporation, as defined in Section 218,
13 that may not be recovered from customer-generators acting
14 pursuant to this section, those obligations shall remain within the
15 customer class from which any shortfall occurred and may not be
16 shifted to any other customer class. Net-metering and co-metering
17 customers shall not be exempt from the public benefits charge. In
18 its report to the Legislature, the commission shall examine
19 different methods to ensure that the public benefits charge remains
20 a nonbypassable charge.

21 (l) A net metering customer shall reimburse the Department of
22 Water Resources for all charges that would otherwise be imposed
23 on the customer by the commission to recover bond-related costs
24 pursuant to an agreement between the commission and the
25 Department of Water Resources pursuant to Section 80110 of the
26 Water Code, as well as the costs of the department equal to the
27 share of the department's estimated net unavoidable power
28 purchase contract costs attributable to the customer. The
29 commission shall incorporate the determination into an existing
30 proceeding before the commission, and shall ensure that the
31 charges are nonbypassable. Until the commission has made a
32 determination regarding the nonbypassable charges, net metering
33 shall continue under the same rules, procedures, terms, and
34 conditions as were applicable on December 31, 2002.

35 (m) In implementing the requirements of subdivisions (k) and
36 (l), a customer-generator shall not be required to replace its
37 existing meter except as set forth in paragraph (3) of subdivision
38 (b), nor shall the electric service provider require additional
39 measurement of usage beyond that which is necessary for
40 customers in the same rate class as the eligible customer-generator.



(n) On or before January 1, 2005, the commission shall submit a report to the Governor and the Legislature that assesses the economic and environmental costs and benefits of net metering to customer-generators, ratepayers, and utilities, including any beneficial and adverse effects on public benefit programs and special purpose surcharges. The report shall be prepared by an independent party under contract with the commission.

(o) It is the intent of the Legislature that the Treasurer incorporate net energy metering and co-energy metering projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~amended to read:~~

~~2891.1. (a) Notwithstanding Section 2891, a telephone corporation selling or licensing lists of residential subscribers shall not include the telephone number of any subscriber assigned an unlisted or unpublished access number. A subscriber may waive all or part of the protection provided by this subdivision through written notice to the telephone corporation.~~

~~(b) Notwithstanding Section 2891, a provider of mobile telephony services, or any direct or indirect affiliate or agent of a provider, providing the name and dialing number of a subscriber for inclusion in any directory of any form, or selling the contents of any directory database, or any portion or segment thereof, shall not include the dialing number of any subscriber without first obtaining the express consent of that subscriber. The provider's form for obtaining the subscriber's express consent shall meet all of the following requirements:~~

~~(1) It shall be a separate document that is not attached to any other document.~~

~~(2) It shall be signed and dated by the subscriber.~~

1 ~~(3) It shall be unambiguous, legible, and conspicuously~~
2 ~~disclose that, by signing, the subscriber is consenting to have the~~
3 ~~subscriber's dialing number sold or licensed as part of a list of~~
4 ~~subscribers and the subscriber's dialing number may be included~~
5 ~~in a publicly available directory.~~

6 ~~(4) If under the subscriber's calling plan the subscriber may be~~
7 ~~billed for receiving unsolicited calls or text messaging from a~~
8 ~~telemarketer, the provider's form shall include a disclosure, which~~
9 ~~shall be unambiguous, legible, and that by consenting to have the~~
10 ~~subscriber's dialing number sold or licensed as part of a list of~~
11 ~~subscribers or be included in a publicly available directory, the~~
12 ~~subscriber may incur additional charges for receiving unsolicited~~
13 ~~calls or text messages.~~

14 ~~(c) A subscriber who provides express prior consent pursuant~~
15 ~~to subdivision (b) may revoke that consent at any time. A provider~~
16 ~~of mobile telephony services shall comply with the subscriber's~~
17 ~~request to opt out within a reasonable period of time, not to exceed~~
18 ~~60 days.~~

19 ~~(d) A subscriber shall not be charged for making the choice to~~
20 ~~not be listed in a directory.~~

21 ~~(e) This section does not apply to the provision of telephone~~
22 ~~numbers to the following parties for the purposes indicated:~~

23 ~~(1) To a collection agency, to the extent disclosures made by the~~
24 ~~agency are supervised by the commission, exclusively for the~~
25 ~~collection of unpaid debts.~~

26 ~~(2) (A) To any law enforcement agency, fire protection~~
27 ~~agency, public health agency, public environmental health agency,~~
28 ~~city or county emergency services planning agency, or private~~
29 ~~for-profit agency operating under contract with, and at the~~
30 ~~direction of, one or more of these agencies, for the exclusive~~
31 ~~purpose of responding to a 911 call or communicating an imminent~~
32 ~~threat to life or property.~~

33 ~~(B) Any information or records provided to a private for-profit~~
34 ~~agency pursuant to this subdivision shall be held in confidence by~~
35 ~~that agency and by any individual employed by or associated with~~
36 ~~that agency. This information or these records shall not be open to~~
37 ~~examination for any purpose not directly connected with the~~
38 ~~administration of the services specified in subdivision (c) of~~
39 ~~Section 2872 or this paragraph.~~

40 ~~(3) To a lawful process issued under state or federal law.~~

~~(4) To a telephone corporation providing service between service areas for the provision to the subscriber of telephone service between service areas, or to third parties for the limited purpose of providing billing services.~~

~~(5) To a telephone corporation, to effectuate a customer's request to transfer the customer's assigned telephone number from the customer's existing provider of telecommunications services to a new provider of telecommunications services.~~

~~(6) To the commission pursuant to its jurisdiction and control over telephone and telegraph corporations.~~

~~(f) Every deliberate violation of this section is grounds for a civil suit by the aggrieved subscriber against the organization or corporation and its employees responsible for the violation.~~

~~(g) For purposes of this section, "unpublished or unlisted access number" means a telephone, telex, teletex, facsimile, computer modem, or any other code number that is assigned to a subscriber by a telephone or telegraph corporation for the receipt of communications initiated by other telephone or telegraph customers and that the subscriber has requested that the telephone or telegraph corporation keep in confidence.~~

~~(h) No telephone corporation, nor any official or employee thereof, shall be subject to criminal or civil liability for the release of customer information as authorized by this section.~~

~~(i) The provisions of this section are severable. If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section that can be given effect without the invalid provision or application.~~

~~(j) For purposes of this section, "mobile telephony services" means commercially available interconnected mobile phone services that provide access to the Public Switched Telephone Network (PSTN) via mobile communication devices employing radio wave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). "Mobile telephony services" do not include mobile satellite services or mobile data services used exclusively for the delivery of nonvoice information to a mobile device.~~

1 ~~SEC. 2.—This act shall become operative only if Assembly Bill~~
2 ~~1733 of the 2003–04 Regular Session is enacted and becomes~~
3 ~~effective on or before January 1, 2005.~~

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